

JESSE KLUMPP,

Petitioner,

v.

JEREMIAH NIXON,

Respondent.

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No. 4:08CV1621 HEA

This matter is before the Court on petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition is successive and shall be summarily dismissed.

Rule 4 of the Rules Governing § 2254 Cases in the United States District Courts provides that a district court shall summarily dismiss a § 2254 petition if it plainly appears that the petitioner is not entitled to relief.

Petitioner brought a petition for writ of habeas corpus on January 11, 2007, challenging a judgment of the Circuit Court of St. Charles County with the case number CR193-386FX. *See Klumpp v. Dormire*, 4:07CV43 TCM (E.D. Mo.). That case is currently pending before this Court. Petitioner subsequently filed a second petition in that case but indicated to the Court that he intended the petition to be a separate action.

Id. The Court then ordered that the petition be filed as a new case, which is the case currently under review.

The instant petition challenges the same state court judgment as the petition in *Klumpp v. Dormire*, 4:07CV43 TCM (E.D. Mo.). As a result, the petition is second or successive.

Petitioner must obtain leave from the United States Court of Appeals for the Eighth Circuit before he can bring a second or successive petition in this Court. 28 U.S.C. § 2244(b)(3)(A). Petitioner has not been granted leave to file a successive habeas petition in this Court. As a result, the petition shall be dismissed.

Accordingly,

IT IS HEREBY ORDERED that petitioner's petition for writ of habeas corpus is **DISMISSED**.

An Order of Dismissal shall accompany this Order.

Dated this 1st day of May, 2009.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE